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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

LUONG, VINH

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 11/21/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/747,911

Applicant(s)

PARK, DAE DEUG

Examiner

Vinh T. Luong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 March 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.


Vinh T. Luong
Primary Examiner

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 7/17/06.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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1. The final rejection on April 4, 2005 is withdrawn and replaced by the instant final rejection in view of Applicant's Information Disclosure Statement filed on July 17, 2006.
2. Claims 3-8 are objected to because of the informalities, such as, e.g., (a) the term "a dash panel" in claim 3 should have been changed to "the dash panel" since it refers to "a dash panel" in claim 1; and (b) no antecedent basis is seen for the term "the pivot" in line 3 of claim 7. Appropriate correction is required.
3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1 and 3-9 are rejected under 35 U.S.C. 102(b) as being anticipated by Kentaro (Japanese Utility Model 9-216528 cited by Applicant).

Regarding claim 1, Kentaro teaches a pedal apparatus for a vehicle, comprising:

- a supporting bracket 22 fixed to a dash panel 14, 12 of the vehicle;
- a pedal arm 20 pivotally connected to the bracket 22, wherein the pedal arm 20 has a first pin 28 pivotally connected to the bracket 22 and a second pin 28 at an end of the pedal arm 20 opposite to an end with a foot pad 20b; and
- a lever 26 hooked at one end to the pedal arm 20, said lever 26 being configured and dimensioned to be struck by a striking portion 32 under deformation by a front impact of the vehicle causing the pedal arm 20 to rotate in a direction of the front of the vehicle by torque transferred from the lever 26 and wherein said lever 26 has a third pin 24 (Fig. 6) pivotally connected to the bracket 22, a hook portion 26b hooked to the second pin 28 of the pedal arm 20, and an impact portion 26a opposite to the striking portion 32.

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Note that Applicant's claim 1 and other claims below do not require the first and second pins to be separate elements. Therefore, Kentaro's second pin 28, which is coincident with Kentaro's first pin 28, "reads on" Applicant's claimed second pin. It is well settled that anticipation law requires distinction be made between invention described or taught and invention claimed. It does not require that the reference "teach" what subject patent application teaches, it is only necessary that the claim under attack, as construed by the Court, "*read on*" something disclosed in the reference, *i.e.*, all limitations of the claim are found in reference, or are "*fully met*" by it. *Kalman v. Kimberly Clark Corp.*, 218 USPQ 781, 789 (CAFC 1983).

Regarding claim 3, the striking portion 32 is defined as an additional structure 32 formed on the dash panel 14, 12 or a mounting plate for a steering wheel.

Regarding claim 4, the impact portion 26a rotates about the third pin 24 in the direction of the front of the vehicle (*i.e.*, from the position in Fig. 1 to the position in Fig. 2) such that the hook portion 26b rotates about the third pin 24 in a direction of the rear of the vehicle, and wherein the second pin 28 hooked by the hook portion 26b rotates about the first pin 28 in the direction of the rear of the vehicle (Fig. 1 to Fig. 2) such that the end of the pedal arm 20 adhering the foot pad 20b rotates about the first pin 28 in a direction of the front of the vehicle.

Regarding claim 5, Kentaro's pedal apparatus is a brake pedal apparatus 20. *Ibid.* English abstract.

Regarding claim 6, Kentaro's pedal apparatus is capable of being a clutch pedal apparatus especially in view of the fact that Applicant does not call for patentable distinguishing structure between the brake pedal and the clutch pedal.

Regarding claim 7, Kentaro teaches a pedal apparatus for a vehicle, comprising:

a pedal arm 20 configured to be pivotally mounted to a dash panel 14, 12 with an upper end above a pivot 28 and a lower, foot operated end 20b below the pivot 28, wherein the pedal arm 20 has a first pin 28 pivotally connected to a bracket 22 and a second pin 28 at an end of the pedal arm 20 opposite to the lower, foot operated end 20b below the pivot 28;

a lever 26 pivotally mounted to the dash panel 14, 12 (by the bracket 22), with a first end (at 26c in Fig. 2) engaging the upper end of the pedal arm 20 and a second impact end 26a extending opposite the first end, and wherein said lever 26 has a third pin 24 pivotally connected to the bracket 22 and a hook portion 26b hooked to the second pin 28 of the pedal arm 20; and

a striking member 32 disposed opposite the impact end 26a of the lever 26 such that deformation of the dash panel 14, 12 in response to a collision causes the striking member 32 to strike the impact end 26a of the lever 26 which pivots such that the first end pulls the pedal arm 20 to a retracted position (Fig. 2).

Regarding claim 8, the pedal arm 20 and lever 26 are pivotally mounted to the bracket 22 that is secured to the dash panel 14, 12.

Regarding claim 9, Kentaro teaches a pedal apparatus for a vehicle, comprising:

a pedal arm 20 configured to be pivotally mounted at a pivot point 28 to a dash panel 14, 12 with an upper end above the pivot point 28 and a lower, foot operated end 20b below the pivot point 28, wherein the pedal arm 20 has a first pin 28 pivotally connected to a bracket 22 and a second pin 28 disposed on the pedal arm 20 at a point 28 rigidly linked to the pivot point 28 and at an end of the pedal arm 20 opposite to the lower, foot operated end 20b below the pivot 28;

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a lever 26 pivotally mounted to the dash panel 14, 12 (by the bracket 22), with a first end (at 26c in Fig. 2) engaging the upper end of the pedal arm 20 and a second impact end 26a extending opposite the first end, and wherein said lever 26 has a third pin 24 pivotally connected to the bracket 22 and a hook portion 26b hooked to the second pin 28 of the pedal arm 20; and

a striking member 32 disposed opposite the impact end 26a of the lever 26 such that deformation of the dash panel 14, 12 in response to a collision causes the striking member 32 to strike the impact end 26a of the lever 26 which pivots such that the first end pulls the pedal arm 20 to a retracted position (Fig. 2).

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1 and 3-9 are further rejected under 35 U.S.C. 103(a) as being unpatentable over Kentaro in view of Gaetano (EP 0 827 885 A1).

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Assuming *arguendo* that Applicant's claims call for the first and second pins being separately formed, regarding claims 1 and 3-9, Kentaro teaches the invention substantially as claimed, however, Kentaro's first and second pins are formed as one piece instead as two separate pieces.

Gaetano teaches a pedal arm 10, 20 pivotally connected to the bracket 17, wherein the pedal arm 10, 20 has a first pin 11 pivotally connected to the bracket 17 and a second pin 21 at an end of the pedal arm 10, 20 opposite to an end with a foot pad (unnumbered in Fig. 1) in order to hook with the hook portion 31 of the lever 30.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to change one-piece formed pin of Kentaro's pedal arm to two separate pins wherein the first pin is pivotally connected to the bracket and the second pin is hooked to the hook portion of Kentaro's lever as taught or suggested by Gaetano.

8. Claim 9 is rejected under 35 U.S.C. 102(b) as being anticipated by Mencarelli et al. (EP 1 247 710 A1).

Mencarelli teaches a pedal apparatus for a vehicle, comprising:

a pedal arm 4 configured to be pivotally mounted at a pivot point 5 (Fig. 7) to a dash panel 2, 3, 20 (Fig. 2) with an upper end 40 (Figs. 7 and 8) above the pivot point 5 and a lower, foot operated end 42 below the pivot point 5, wherein the pedal arm 4 has a first pin 5 pivotally connected to a bracket 2, 20 and a second pin 7, 80 disposed on the pedal arm 4 at a point 7, 80 rigidly linked to the pivot point 5 (Fig. 4) and at an end 40 of the pedal arm 4 opposite to the lower, foot operated end 42;

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a lever 9 pivotally mounted to the dash panel 2, 3, 20 with a first end 90 engaging the upper end 40 of the pedal arm 4 and a second impact end 91 extending opposite the first end 90, and wherein said lever 9 has a third pin 92 pivotally connected to the bracket 2, 20 and a hook portion 90 hooked to the second pin 7, 80 of the pedal arm 4; and

a striking member 10 disposed opposite the impact end 91 of the lever 9 such that deformation of the dash panel 2, 3, 20 in response to a collision causes the striking member 10 to strike the impact end 91 of the lever 9 which pivots such that the first end 90 pulls the pedal arm 4 to a retracted position (Fig. 2).

9. Applicant's arguments filed April 3, 2006 have been fully considered but they are not persuasive.

First, the rejection of claims 1 and 3-8 under 35 USC 102(b) as being anticipated by Gaetano is withdrawn. Applicant's arguments about this rejection are deemed to be moot.

Second, with respect to Mencarelli, Applicant contended that it is *impossible* for Mencarelli's lever 9 to pivot such that the first end pulls the pedal arm to a retracted position.

The Examiner respectfully submits that Applicant's contention is unsupported by substantial evidence in the record. In fact, Figs. 4, 7, and 8 of Mencarelli show that when the lever 9 strikes the stop 10, the lever 9 rotates counter-clockwise to hit the projections 8b, 8c (Figs. 4 and 5) of the plate 8 and causes the projections 8b, 8c to rotate counter-clockwise therewith. The projections 8b and 8c of the plate 8 are connected with the pins 80 and 7. Therefore, the rotation of the projections 8b and 8c results in the rotation of the pins 80 and 7. Further, the pins 80 and 7 are connected with the pedal arm 4. See Figs. 4 and 5. Consequently,

the rotation of the pins 80 and 7 results in the rotation of the pedal arm 4 to the retracted position as evidenced by Figs. 1 and 2.

In summary, it is *possible* for Mencarelli's lever 9 to pivot such that its first end 90 pulls the pedal arm 4 to the retracted position via the projections 8b and 8c and the pins 80 and 7.

Third, Applicant argued that "[s]etting aside the fact that plate 8 is a plate, not a pin, Mencarelli still does not disclose or suggest that the lever has a 'hook portion hooked to the second pin.'"

The Examiner respectfully submits that during patent examination, the pending claims must be given their broadest reasonable interpretation consistent with the specification, however, it is impermissible to import the subject matter from the specification into the claims. MPEP 1111. In other words, "[o]ne must bear in mind that, especially in nonchemical cases, the words in a claim are generally not limited in their meaning by what is shown or disclosed in the specification." MPEP 2111.01. In addition, it is well settled that anticipation law requires distinction be made between invention described or taught and invention claimed. It does not require that the reference "teach" what subject patent application teaches, it is only necessary that the claim under attack, as construed by the Court, "*read on*" something disclosed in the reference, i.e., all limitations of the claim are found in reference, or are "*fully met*" by it. *Kalman v. Kimberly Clark Corp.*, 218 USPQ 781, 789 (CAFC 1983).

In the instant case, *Webster's II New Riverside University Dictionary 1994* defines the verb "hook" as "to connect or catch with or as if with a hook." Applicant admitted that when the lever 9 strikes the stop 10, the lever 9 rotates counter-clockwise, i.e., the lever 9 contacts the projections 8b and 8c (Figs. 4 and 5) of the plate 8. In other words, the lever 9 hooks with the

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projections 8b and 8c. Since the pins 80 and 7 are one-piece formed with the projections 8b and 8c, therefore, the lever 9 operatively contacts or hooks with the pins 80 and 7 as defined by standard dictionary. See the term "operatively connected" in *Innova/Pure Water Inc. v. Safari Water Filtration Systems Inc.*, 72 USPQ2d 1001 (CA FC 2004).

In summary, the end 90 of lever 90 is operatively contacted, connected, or hooked with the pin 80 of the plate 8 via the projections 8b and 8c when the lever 90 rotates counter-clockwise and hits the projections 8b and 8c. Thus, the lever 90 "reads on" the functional limitations recited in claim 9.

For the foregoing reasons, the rejection based on Mencarelli is maintained.

10. Applicant's submission of an information disclosure statement under 37 CFR 1.97(c) with the fee set forth in 37 CFR 1.17(p) on July 17, 2006 prompted the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 609.04(b). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

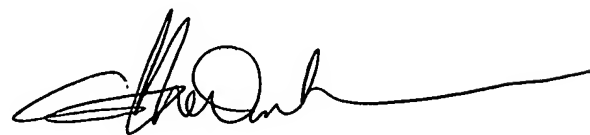
12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vinh T. Luong whose telephone number is 571-272-7109. The examiner can normally be reached on Monday - Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Ridley, can be reached on 571-272-6917. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Luong

November 20, 2006



Vinh T. Luong
Primary Examiner